HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No. 296 OF 2007

Between:

Smt. Mallamma & others

… Appellants

And

The State of Andhra Pradesh,
Rep. by its Secretary,
Revenue Department,
Hyderabad & others

… Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri Syed Shareef Ahmed

10.04.2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 01.12.2006 passed by the learned Single Judge, whereby he refused to quash report dated 29.11.1993 submitted by Enquiry Officer, Zone II (H) Section to Special Officer and Competent Authority (ULC), Hyderabad.

The appellants claim to be the legal heirs of late Ch. Pochaiah, who, as per their assertion, owned land measuring Ac.5.00 comprised in Survey No. 91, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District. In 1976, Tahsildar, Serilingampally is said to have made an attempt to dispossess late Ch. Pochaiah. This led to filing of Writ Petition No.1428 of 1976, which was disposed of by the learned Single Judge on 25.01.1977 with an observation that Tahsildar may hold an enquiry and take

necessary action.

In the meanwhile, Ch.Pochaiah is said to have filed declaration under Section 6 of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the 1976 Act'), which was registered as C.C.No.14 of 1977. Shri Ch. Pochaiah died on
9-5-1998. After three years and five months, one of the two General Power of Attorneys of the appellants made an application dated 30.10.2001 to the Deputy Collector and Mandal Revenue Officer, Serilingampalli for demarcation of the land by alleging that some neighbours are trying to encroach upon the land. Respondent No.4 rejected the application vide Memo issued in July, 2003. After sometime, the appellants filed writ petition for issue of a direction to the respondents to supply certified copies of the declaration filed by Shri Ch. Pochaiah. The same was disposed of by the learned Single Judge on 10.11.2004 by directing the concerned authority to make available certified copy of the declaration with the appellants. Subsequently, the appellant filed Contempt Case No.1017 of 2005 with the complaint that the order of the High Court has not been complied with. After receiving contempt notice, the concerned authority supplied the documents to the appellants.

It is borne out from the record that in compliance of the direction issued by this Court in Writ Petition No.1428 of 1976, an enquiry was conducted and report dated 29.11.1993 was submitted with the finding that there was no person named Ch. Pochaiah, S/o Ramaiah and the land in question is entered as 'kacha sarkari'. It was also mentioned in the report that the land had already been allotted to Central University and other government organizations. The appellants could get copy of the report pursuant to the direction given by the Court in Writ Petition No.24621 of 2005. Thereafter, they filed Writ Petition No. 24926 of 2006 for quashing the enquiry report and the consequential proceedings. They further prayed for issue of a direction to the respondents to process the declaration filed by late Pochaiah under

the 1976 Act and pass appropriate order.

The learned Single Judge, after taking note of the contents of report dated 29.11.1993, dismissed the writ petition with an observation that for determination of their claim over the property, the petitioners (the appellants herein) can avail remedy by filing title suit in the civil Court.

Shri Syed Shareef Ahmed, learned counsel for the appellants argued that the report submitted by the Enquiry Officer is flawed inasmuch as it does not reflect true status of the property in question and, therefore, the respondents be directed to ignore the same and pass appropriate order on the declaration filed by late Shri Ch. Pochaiah under Section 6 of the 1976 Act. He submitted that the finding recorded by the Enquiry Officer that there was no person named Ch. Pochaiah is liable to be declared as perverse because the same is not based on any tangible evidence. In the end, Shri Shareef Ahmed argued that the learned Single Judge committed a serious error by relegating the appellants to the remedy of civil suit ignoring the fact that the proceedings initiated under the 1976 Act have not been finalised.

In our opinion, there is no merit in the argument/ submission of the learned counsel. A reading of report dated 29.11.1993, the relevant portion of which has been extracted in the order under challenge, shows that the officer who conducted enquiry recorded his observation only on the basis of spot inspection and the revenue records made available to him in which the land was entered as ‘kacha sarkari’. These observations do not, in any manner, affect the right, if any acquired by the appellants in their capacity as legal heirs of Ch. Pochaiah. However, in exercise of power vested in it under Article 226 of the Constitution of India, this Court cannot confer title on the appellants in respect of the land in question and the only remedy available to them is to file civil suit.

With the above observations, the appeal is dismissed.

As a sequel to dismissal of the appeal, W.A.M.P.No. 567 of 2007 filed by the appellants is disposed of as infructuous.

G.S. SINGHVI, CJ

10.04.2007

C.V. NAGARJUNA REDDY, J

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